

ADOPTED BY THE
MAYOR AND COUNCIL

May 15, 2007

ORDINANCE NO. 10401

RELATING TO ELECTIONS; REQUIRING ANY PERSON WHO MAKES INDEPENDENT EXPENDITURES RELATED TO A PARTICULAR CITY OFFICE CUMULATIVELY EXCEEDING FIVE HUNDRED DOLLARS TO FILE A REPORT WITH THE CAMPAIGN FINANCE ADMINISTRATOR; REQUIRING SUPPLEMENTAL REPORTS EACH TIME PREVIOUSLY UNREPORTED INDEPENDENT EXPENDITURES EXCEED ONE THOUSAND DOLLARS; EXCEPTING INDEPENDENT EXPENDITURES ALREADY REPORTED UNDER A.R.S. SECTIONS 16-913 AND 16-915; SPECIFYING THE TIME FOR FILING REPORTS; REQUIRING THAT ANY REPORT BY A POLITICAL COMMITTEE IDENTIFY ANY PERSONS WHO HAVE CONTRIBUTED FIVE HUNDRED DOLLARS OR MORE TO THE POLITICAL COMMITTEE; SPECIFYING PENALTY FOR FAILURE TO FILE A REPORT OR PROVIDE INFORMATION; SPECIFYING FACTORS THE CAMPAIGN FINANCE ADMINISTRATOR SHALL USE IN DETERMINING WHETHER EXPENDITURES SHOULD HAVE BEEN REPORTED; PROVIDING THAT EVERY TWO YEARS THE CAMPAIGN FINANCE ADMINISTRATOR SHALL ADJUST THE AMOUNTS REQUIRED FOR INITIAL AND SUPPLEMENTAL REPORTS BY THE PERCENTAGE CHANGE IN THE CONSUMER PRICE INDEX; CREATING NECESSARY DEFINITIONS; AMENDING TUCSON CODE CHAPTER 12 TO ADD A NEW ARTICLE VIII AND SECTION 12-110; AND DECLARING AN EMERGENCY.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF TUCSON, ARIZONA, AS FOLLOWS:

SECTION 1. Tucson Code Chapter 12 ("Elections") is amended by adding a new Article VIII and Section 12-110 to read as follows:

Article VIII. Reporting of Independent Expenditures

Sec. 12-110. Supplemental reporting of independent expenditures in City elections.

(a) *Statement of purposes.* This section's purposes are to:

1. Allow voters access to information about who supports or opposes candidates financially;
2. Allow the Campaign Finance Administrator to more effectively distinguish independent expenditures from expenditures made by candidates or candidates' campaign committees; and
3. Deter corruption and the appearance of corruption.

This section is intended to supplement, and not supersede or conflict with, any state law regarding the reporting of independent expenditures in City elections.

(b) *Original report.* Any person who makes independent expenditures related to a particular City office cumulatively exceeding five hundred dollars during a campaign period, with the exception of any expenditure listed in A.R.S. section 16-920 and any independent expenditure by an organization arising from a communication directly to the organization's members, shareholders, employees, affiliated persons, and subscribers, shall file reports with the Campaign Finance Administrator in accordance with subsection (e) so indicating, identifying the office and the candidate or group of candidates whose election or defeat is being advocated, and stating whether the person is advocating election or advocating defeat.

(c) *Supplemental report.* Any person who has previously reached the dollar amount specified in subsection (b) for filing an original report shall file a supplemental report in accordance with subsections (b) and (e) each time previously unreported independent expenditures specified by subsection (b) exceed one thousand dollars.

(d) *Exception for independent expenditures previously reported.* Subsections (b) and (c) shall not apply to any independent expenditure already reported by the person making the independent expenditure pursuant to the requirements of A.R.S. sections 16-913 and 16-915, and the amount of that already reported independent expenditure shall not be used in calculating the trigger amounts for original and supplemental reports set forth in subsections (b) and (c).

(e) *Time of filing.* Any person who must file an original report pursuant to subsection (b), or who must file a supplemental report for previously unreported amounts pursuant to subsection (c), shall file as follows:

1. Beginning January 1 of any election year and until nine calendar weeks prior to the primary election date, the person shall file a report on the first business day of each month, unless the person has not reached the dollar amount for filing an original or supplemental report on that date.

2. Beginning nine calendar weeks prior to the primary election date, except as stated in paragraph 3 of this subsection, the person shall file a report on any Tuesday by which the person has reached the dollar amount for filing an original or supplemental report.

3. During the last fourteen calendar days before the primary election date and the last fourteen calendar days before the general election date, the person shall file a report within one business day of reaching the dollar amount for filing an original or supplemental report.

(f) *Contents of report.* Any report by a political committee under this section shall, in addition to providing all other required information, identify any persons who have contributed \$500 or more to the committee.

(g) *Penalty for failure to file required report.* Any person who fails to file a report, or provide information, required by this section shall be subject to a civil penalty of one hundred dollars per day, provided that no penalty imposed pursuant to this subsection shall exceed twice the amount of independent expenditures not reported. In the case of a political committee, the civil penalty may be assessed against the political committee's chairperson, its treasurer, or both. All civil penalties paid under this subsection shall be deposited in the election campaign account established under Tucson Charter Chapter XVI, Subchapter B, Section 6.

(h) *Determining whether expenditure is for communication that expressly advocates the election or defeat of a clearly identified candidate.* In determining whether an expenditure should have been reported pursuant to subsections (b) and (c), the Campaign Finance Administrator shall consider whether the expenditure was for a communication that expressly advocates the election or defeat of a clearly identified candidate and was not made with prior consent, cooperation, or consultation with any candidate or committee or agent of the candidate and that is not made in concert with or at the request or suggestion of a candidate, or any committee or agent of the candidate. In determining that a communi-

cation expressly advocates the election or defeat of a candidate, rather than a communication that advocates in favor of or against an issue, the Campaign Finance Administrator will consider the following three components:

1. Even if it is not presented in the clearest, most explicit language, speech is express if its message is unmistakable, unambiguous, and suggestive of only one plausible meaning.

2. Speech may only be termed advocacy if it presents a clear plea for action, and thus speech that is merely informative is not covered by the Act.

3. It must be clear what action is advocated. Speech cannot be considered express advocacy of the election or defeat of a clearly identified candidate when reasonable minds could differ as to whether it encourages a vote for or against a candidate or encourages the reader to take some other kind of action. If any reasonable alternative reading of speech can be suggested, it cannot be express advocacy subject to this section's disclosure requirements.

(i) *Modification of reportable amounts.* Every two years, the Campaign Finance Administrator shall adjust the dollar amounts specified in subsections (b) and (c) by the percentage change in the consumer price index and publish the new amounts for distribution to election officials, candidates and campaign committees.

(j) *Severability.* If a provision of this section or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the section that can be given effect without the invalid provision or application, and to this end the provisions of this section are severable.

(k) *Definitions.* As used in this section:

"Business day" means any day that is not a Saturday, Sunday, or Holiday.

"Consumer price index" means the consumer price index for all urban consumers, United States city average, that is published by the United States Department of Labor, Bureau of Labor Statistics.

"Person" includes a corporation, company, partnership, political committee as defined in A.R.S. section 16-901, firm, association or society, as well as a natural person.

SECTION 2. The various City officers and employees are authorized and directed to perform all acts necessary or desirable to give effect to this ordinance.

SECTION 3. WHEREAS, it is necessary for the preservation of the peace, health, and safety of the City of Tucson that this ordinance become immediately effective, an emergency is hereby declared to exist and this ordinance shall be effective immediately upon its passage and adoption.

PASSED, ADOPTED AND APPROVED by the Mayor and Council of the City of Tucson, Arizona, May 15, 2007.

MAYOR

ATTEST:


CITY CLERK

APPROVED AS TO FORM:


CITY ATTORNEY

REVIEWED BY:


CITY MANAGER

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